

THE NEBRASKA BOARD OF VETERINARY MEDICINE AND SURGERY

TO: All Nebraska-Licensed Veterinarians and Veterinary Technicians
DATE: February 6, 2006
RE: **SUMMARY OF QUESTIONS FROM THE VETERINARY MEDICINE AND SURGERY
INFORMATIONAL MEETINGS HELD IN MAY, 2005**

- In May, 2005, the Board of Veterinary Medicine and Surgery (Board) held four *Informational Meetings across the State to discuss the Regulations Regarding Veterinary Medicine and Surgery* which became effective January 15, 2005.
- Access the *slides used at the presentation* at <http://www.hhs.state.ne.us/crl/medical/vet/vetindex.htm>.
- Following is a *compilation of many of the questions* that were raised at the meetings and answers that were provided by the Board and the Department.
- Also included are *questions that were raised at the meeting regarding common business issues*.
- These business issues do not pertain to matters addressed in the Uniform Licensing Law, the Veterinary Medicine and Surgery Practice Act or the Regulations Governing Veterinary Medicine and Surgery and are *not within the purview of the Board*.
- You should *consult your own attorney* about business issues. You may want to work with your attorney to set up policies and procedures for your office to outline how to deal with these issues in your practice.
- The Board will *refer questions on business issues to the Nebraska Veterinary Medical Association* in the event the NVMA is able to be of assistance to the profession.

Delegated Health Care Tasks for Licensed Veterinary Technicians and Unlicensed Assistants

Q: *Who can perform dentals on animals?*

A: In the past, unlicensed assistants could perform dentals on animals – this is no longer permitted pursuant to the Regulations which became effective January 15, 2005. Only licensed veterinary technicians can perform certain dental procedures on an animal, and this must be under the direct supervision of the veterinarian. The dental procedures are limited to: removal of calculus, soft deposits, plaque and stains; smoothing, filing, and polishing of teeth; and flotation or dressing of equine teeth. Licensed veterinary technicians can also perform dental extraction not requiring sectioning of a tooth or the resectioning of bone, under the immediate supervision of the veterinarian.

Q: *Can the veterinary technician begin induction of anesthesia on the animal while the vet is driving to the location?*

A: NO, *direct supervision means on the premises*, so that is not permitted. (Administration of pre-medication anesthetics is not considered induction of anesthesia).

Q: *What is the radiation safety training course, and who needs to take it?*

A: In order to be able to operate an x-ray machine, unlicensed assistants need to obtain training in radiation safety as required by Title 180 NAC 6-010.03 item 4. Unlicensed assistants can contact a veterinary technician school to obtain information on a course. The Radiation Safety Regulations set out minimum training requirements for operators of non-human x-rays (Title 180 NAC 15-024). Nebraska College of Technical Agriculture is currently offering a course online. Contact Barbara Berg at 308/367-4124 for information. Vatterott College (contact Joni Brunssen, DVM at 402/891-9411) and Northeast Community College (contact Mike Cooper, DVM at 402/371-2020) also offer courses periodically. Veterinary technicians obtain training in radiation safety during their veterinary technician schooling and do not need any additional coursework.

Q: *Which type of laboratory tests can be performed by unlicensed assistants?*

A: Unlicensed assistants can perform the automated tests that are read by a machine. Licensed veterinary technicians need to read the results of non-automated tests, ie blood smears and fecals. Unlicensed assistants can *prepare* the specimens for non-automated tests, which then must be read by licensed veterinary technicians or licensed veterinarians.

Q: *What about routine veterinary labwork that is sent to a laboratory that deals with human labwork? The individuals who work in those laboratories will not be licensed as veterinary technicians – is it alright to send veterinary labwork to these labs?*

A: The Board regulates labwork done in the veterinary office or hospital. Human laboratories are regulated under Federal Drug Administration Clinical Laboratory Improvement Amendments (CLIA) standards, which the State of Nebraska implements. The State of Nebraska does not license laboratories. So, it is acceptable to send labwork to human labs who do not employ licensed veterinary technicians, if you feel that is appropriate for the situation. Interpretation of test results must be performed by a licensed veterinarian.

Administration of Rabies Vaccinations

Q: *Who can administer legally recognized rabies vaccinations to animals?*

A: Only a licensed veterinarian.

Q: *Who can order or purchase rabies vaccine?*

A: The Rabies Control Act states that rabies vaccine used to vaccinate domestic animals can be sold only to licensed veterinarians. The rabies control act requires that all domestic animals must be vaccinated against rabies, which must be performed by a licensed veterinarian. Domestic animal means any dog or cat, and cat means a cat which is a household pet. There is no restriction on ordering or purchasing rabies vaccine for other animals. Although the Rabies Control Act affects veterinary medicine, the Board does not ordinarily work with this law or implement its requirements.

Veterinary Medical Records

Q: *Does a veterinarian have to give the client copies of the medical records for their animal if the client has not paid their bill?*

A: Yes, they do. It is unprofessional conduct to not provide the client the medical records for his own animal. The law regarding medical records is found in Neb. Rev. Stat. 71-8401 to 71-8407. These requirements apply even if the bill has not been paid. You cannot withhold the records from the client, even if the bill has not been paid. The law does allow the provider to charge a fee to the client in most cases. The fee may be no more than \$20 as a handling fee and no more than 50 cents per page as a copying fee. A provider may charge for the reasonable cost of all duplications of medical records which cannot routinely be copied on a standard photocopy machine. A provider may charge an amount necessary to cover the cost of labor and materials for furnishing a copy of an x-ray or similar special medical record. If the provider does not have the ability to reproduce x-rays or other records requested, the person making the request may arrange, at his or her expense, for the reproduction of such records.

Business Issues

Q: *Who owns the veterinary medical records – the clinic or the veterinarian?*

A: Individuals need to consult their own attorney. This is a business issue and not within the purview of the Board.

Q: *Does a veterinarian have to give the client their animal if they haven't paid the bill?*

A: Individuals need to consult their own attorney. This is a business issue and not within the purview of the Board.

Q: *What are the veterinarian's rights or responsibilities when an animal is abandoned at their clinic?*

A: Individuals need to consult their own attorney. This is a business issue and not within the purview of the Board.

Veterinary Prescription Medicine Issues

Q: *Is a veterinarian required to give a client a prescription so that they can purchase the drug elsewhere, ie at an internet pharmacy?*

A: First of all, there must be a valid veterinarian-client-patient relationship that exists in order for a prescription to be considered; and secondly, the veterinarian must have determined that there is a valid medical reason to

provide the medication to the animal. If these requirements are not met, a prescription would not be appropriate for the situation. Other than these two requirements, Nebraska law is silent on the issue of whether or not the veterinarian must give the client a written prescription, rather than dispensing the medication to the client. However, this does not necessarily mean that a veterinarian can refuse to give the patient a written prescription. You will need to obtain legal advice on the matter from your own attorney. *You may also want to consult the AVMA Code of Ethics which states that in the presence of a proper veterinarian-client-patient relationship, the veterinarian should honor a client's request for a prescription in lieu of dispensing.*

Q: *What about drug company representatives who provide prescription drugs directly to the consumer at feedlots – is this acceptable for them to do?*

A: There can be a number of different situations that could actually be happening for the circumstance described. For purposes of these examples, the drug company representative does not have a license to practice veterinary medicine and surgery or a license to practice as a pharmacy.

1. A drug company representative delivers a specific prescription drug to a feedlot. This specific drug was ordered from the drug company, for the feedlot, by a veterinarian who has a valid veterinarian-client-patient (v-c-p) relationship with the feedlot. Furthermore, the veterinarian requested that this prescription be “drop-shipped” (delivered) to the feedlot from the drug company. The representative delivering the drug has an invoice or order with him showing the specific order for this drug. *This is within the law and is acceptable.*

2. A drug company representative stops at a feedlot. The feedlot asks to purchase a prescription drug and gives the representative a written prescription for the drug that has been written for them by a veterinarian who has a valid v-c-p relationship with the feedlot. The representative then sells the feedlot the drug. *This is not within the law and is not acceptable.* The drug company representative cannot be carrying prescription drugs for which he does not have invoices/orders to “drop-ship”. He cannot be carrying an inventory of prescription drugs or dispensing drugs. This is the unlicensed practice of pharmacy.

3. A drug company representative stops at a feedlot. The feedlot asks to purchase a prescription drug, but does not have a prescription. The representative has blank prescription forms which are pre-signed by a veterinarian. The representative fills in the information about the requested drug on the pre-signed prescription and then sells the drug to the feedlot. *This is unlawful because:* 1) A veterinarian may not sign blank prescriptions; 2) There is not a valid v-c-p relationship; 3) The representative is carrying an inventory of prescription drugs for which he does not have any invoices/orders, and is dispensing drugs. 4) The representative is practicing pharmacy and veterinary medicine without a license.

Q: *Can a veterinarian fill prescriptions for anyone who has a valid prescription from a veterinarian?*

A: No, a veterinarian can only fill prescriptions for his/her own clients/patients, unless he/she also holds an active Pharmacy license from the State of Nebraska.

Q: *If a drug company representative can “drop-ship” an order for a veterinarian to a feedlot, why can't a veterinarian fill a prescription that was written by another veterinarian?*

A: A veterinarian can order a drug from a company and then ask that it be “drop-shipped” to the feedlot. If he fills a prescription for anyone other than his/her own clients/patients, he/she also needs to hold an active Pharmacy license.

Q: *What can I do about veterinary pharmacy practices that I have observed that might be a violation of the statutes and regulations?*

A: You can file a complaint with the Investigations Division of the Department of Health and Human Services Regulation and Licensure. The phone number is 402/471-0175. The web address is www.hhs.state.ne.us/reg/investi.htm. Specific information is needed in order to determine if an investigation should be opened. There needs to be a reasonable amount of information that could be obtained through investigation, so specific individuals and events should be outlined in the complaint. If an investigation reveals information about actions that could be the unlicensed practice of pharmacy, then the investigation would be reviewed by the Board of Pharmacy to determine whether an order to cease and desist the unlicensed practice of pharmacy should be issued.

Various Issues

Q: *What documents are needed to verify completion of continuing competency for renewal if I am audited?*

A: Certificates of attendance, or a letter from the provider that verifies you attended the course and indicates the number of hours you received. Home study courses should also give a certificate of completion. Keep these documents in your records so that you will be able to produce them if you are audited.

Q: *Regarding my responsibility to mandatorily report that I received a conviction, how do I know if an occurrence resulted in a misdemeanor or felony conviction?*

A: Check with the law enforcement agency which issued the ticket, the court that the matter went through, or your attorney.

Q: *Can a student in a school of veterinary technology work in a clinic and perform the duties of a licensed veterinary technician prior to obtaining a license?*

A: The current law on this subject states that an individual does not need a license to practice as a veterinary technician if they are a regular student in a veterinary technician school and are (1) performing duties assigned by their instructor; or (2) working under the direct supervision of a licensed veterinarian during a school vacation period. School vacation period must be an actual period of vacation for the school, not just time that the student does not happen to be in class, ie on weekends or evenings.

Q: *If I report someone for practicing veterinary medicine and surgery without having a valid license to do so, what is the process that will be followed?*

A: Every complaint about unlicensed practice received by the Division of Investigation for the Department is reviewed by a three member panel to determine if legal sufficiency exists to conduct an investigation. If an investigation is conducted, the matter is brought before the Board for their decision. In the case of unlicensed practice of a profession, the Board can determine to issue an order to cease and desist the unlicensed practice of the profession. Failure to obey an order to cease and desist after receipt of such an order would then be a Class III felony punishable by one to twenty years in prison and up to a \$25,000 fine. In such a case, the Board would refer the matter to the Attorney General who would then need to refer the matter to the appropriate County Attorney for prosecution. It would be the County Attorney's decision on whether or not to pursue the matter.

ALL VETERINARIAN AND VETERINARY TECHNICIAN LICENSES EXPIRE APRIL 1, 2006. Enclosed is your renewal notice. You are encouraged to return your completed renewal and the fee as soon as possible. Although the deadline for renewal is for the notice to be returned to us with a postmark of April 1, *you are encouraged to submit your renewal prior to this to allow time for processing. In addition, if your renewal is found to be deficient, the renewal notice is returned to you for completion, and your license is not renewed until the deficiency is corrected and the completed notice is returned and processed.*

IMPORTANT PLEASE READ: THERE IS NO "GRACE PERIOD" FOR RENEWAL OF LICENSES On April 2, 2006, all licenses not renewed or placed on inactive or lapsed status will be placed on *expired status*. **If you practice on an expired license you will be subject to an administrative penalty of \$10 per day, up to a maximum of \$1,000. In addition, you may be subject to disciplinary action against your license.**

You will still have 30 days after the expiration date of April 1 in which to renew your license with the addition of the late payment penalty of \$25. However, *during this 30-day period, you are not authorized to practice until your license has been renewed by the Department.*

On May 2, 2006, all licenses not renewed or placed on inactive or lapsed status will be revoked for non-payment of the renewal fee or non-compliance with the continuing competency requirement.

Continuing Competency Requirements For Renewal of License:

Veterinarians: 32 hours of approved continuing competency earned between April 1, 2004 and April 1, 2006.

Veterinary Technicians: 16 hours of approved continuing competency earned between April 1, 2004 and April 1, 2006. Please review the Regulations Governing Veterinary Medicine & Surgery 172 NAC 180-008 for complete information concerning continuing competency requirements.

<http://www.hhs.state.ne.us/crl/medical/vet/vet/regs.htm>